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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

FEDERAL TRADE COMMISSION Plaintiff, v. QUALCOMM INCORPORATED, a Delaware corporation, Defendant.	Case No. 5:17-cv-00220-LHK-NMC **NON-PARTY APPLE INC. AND DEFENDANT QUALCOMM INCORPORATED'S JOINT STATUS REPORT** Courtroom: 7, 4th Floor Judge: Hon. Nathanael M. Cousins
IN RE QUALCOMM ANTITRUST LITIGATION	Case No. 5:17-md-02773-LHK-NMC

Pursuant to the Court's February 26, 2018 docket entry, Non-Party Apple Inc. ("Apple") and Defendant Qualcomm Incorporated ("Qualcomm") submit this Joint Status Report.

I. Apple's Document Production

A. *Apple's Position*

To date, Apple has produced more than 4.1 million documents totaling over 37 million pages. Apple's anticipated document production is complete, with the following exceptions:

(1) Apple may re-review privilege log entries and determine that documents are non-privileged. Apple may also re-review entries on its forthcoming log of non-responsive documents and identify documents that are responsive and non-privileged. In both cases, Apple will produce downgrades that are responsive and non-privileged on a rolling basis.

(2) Apple has identified a small number of documents that were incorrectly logged as non-privileged and non-responsive. Apple will produce those documents within the next week.

(3) Apple and the parties have agreed that Apple will conduct a re-review of 1,000 privilege log entries identified by Qualcomm. (ECF 653 at 9.) If that review proposal is adopted by the Court, Apple will produce any downgraded non-privileged documents identified during that process.

B. *Qualcomm's Position*

Since the March 23 Status Report, Qualcomm received two productions from Apple on March 23 and March 28, consisting of 15 and 1,404 documents, respectively. The former consists of previously clawed-back documents that have been reproduced, and the latter includes documents from the custodial files of three Apple witnesses who have already been deposed, namely Messrs. Blevins, Schafer, and Watrous. During a meet and confer on March 29, Apple informed Qualcomm that it identified approximately 1,600-1,700 documents that it had initially withheld on its December 29 privilege log, then removed from its revised log on the ground that

the documents were non-responsive, and has upon further review again determined to be responsive to Qualcomm's requests. Apple plans to produce the non-privileged portion of those documents next week. Qualcomm reserves the right to seek additional deposition time with the appropriate witnesses based on any documents that Qualcomm was not reasonably able to review and use at deposition because of the timing of production.

II. Apple's Privilege Log

A. *Qualcomm's Position*

Clawbacks. Since the March 23 Status Report, Apple has clawed back five additional documents. In total, Apple has now sent 14 clawback letters covering 446 documents. Qualcomm and Apple have met and conferred regarding the clawed-back document discussed at the March 28, 2018 hearing, which was the subject of the first bullet point in the Court's March 26, 2018 order. Qualcomm does not concede that the clawback was proper. Nevertheless, based on the information currently available to it, and reserving its rights should it uncover additional relevant information, Qualcomm does not intend to challenge the clawback.

Nonresponsive Documents. During a meet and confer on March 29, Apple informed Qualcomm that it will meet the Court's March 30 deadline to provide the list of documents that Apple deemed non-responsive in the course of revising its privilege log. (ECF No. 650.) As noted above, Apple has further revised its responsiveness determinations with respect to some of these documents. On the March 29 meet and confer, Apple stated that it will produce a new log for any documents that are once again deemed responsive but continue to be withheld as privileged.

Proposed Re-Review. On March 23, Qualcomm and Apple submitted an agreed proposal for the Court's approval in which Qualcomm will identify 1,000 log entries for Apple to re-review within 14 days of receipt. (ECF Nos. 652, 653.) Qualcomm would be prepared to send the list of 1,000 log entries to Apple early next week.

B. *Apple's Position*

Non-Responsive Documents. In the course of re-reviewing privilege log entries, Apple has identified some entries that are not privileged but also non-responsive. Apple is removing those entries from its privilege log, but because the documents are non-responsive, is not producing the downgraded documents. Apple will serve a log identifying those entries on March 30, 2018, pursuant to the Court's March 26, 2018 Order (ECF 650).

III. Miscellaneous

At the March 28, 2018 discovery hearing, Apple's counsel asked the Court to reconsider its Order (ECF 651) denying Apple's motion to seal portions of Apple and Qualcomm's March 16, 2018 Joint Status Report. After further consideration, and to avoid burdening the Court with unnecessary motion practice, Apple withdraws its request. Apple will re-file the March 16 Joint Status Report pursuant to Civil Local Rule 79-5(f)(2).

The deposition of Bruce Sewell has been re-scheduled for April 4-5, 2018.

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Dated: March 30, 2018

Respectfully submitted,

By: */s/ Edward H. Takashima*

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FILER'S ATTESTATION

I, Edward H. Takashima, am the ECF user whose identification and password are being used to file this Joint Status Report. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that the signatories on this document have concurred in this filing.

/s/ Edward H. Takashima

Edward H. Takashima